Sectt. II-27—20,006—16·11·40.

Public Works (1941) Department.

Ms. SERIES. I

G.O. No. 2361

Dated 30. 9.41.

[Despatch Abstract.]

Suits — S. Ramana. Land Acqn. Mangalore Taluk & Town — Collector's Bungalow & Compound. Addl. Compensation. Appeal to High Court. Mans. to Govt's Solicitor —

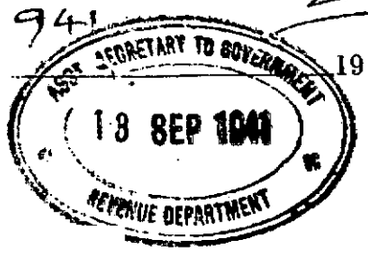
Papers return

C.F. 31—12,000—28-11-39

Revenue DEPARTMENT.

CURRENT No. 3285 G 13 941

*Received*_____ .19 *Registered* _____ 19



Subject. Suits - (South Kanara) Land Acquisition - Mangalore taluk and town - Collector's bungalow and compound - Additional compensation Appeal to the High Court.

Reference No. I.4146/41-1.

Station Madras, , *Dated the* 13th September 19 41

From

S.Venkateswaran Esq., I.C.S.,
Secretary,

Board of Revenue.

J.B.Brown Esq., C.I.E.,I.C.S.,
Commissioner of Land Revenue.

Read the following:-

Letter from the Government Pleader, Madras, No.892 dated 10-9-1941.

Reference.

Submitted to the Government.

2. In B.P.No.Mis.1421, dated 19-5-1938, the Board sanctioned the filing of an appeal in the High Court against the decision of the Subordinate Judge, Mangalore, awarding an additional compensation of Rs.40,104/- with interest thereon, for the acquisition of the Collector's bungalow at Mangalore and the compound in which it is situated. Intimation regarding the filing of the appeal was given to the Government by the Government Pleader - vide Endorsement No.3970 B/38-1, Revenue, dated 27th July 1938. The appeal has come up for hearing in the High Court and the Government Pleader asks for orders on his letter cited above.

3. A copy of the Subordinate Judge's judgment will be found at pages 19 to 33 C.F. of B.P.Mis.1421, dated 19-5-1938 which is submitted herewith for reference and return.

4. The Board invites the attention of the Government to the correspondence ending with their Order No.Ms.464,W, Public Works and Labour Dept.dated 18th February 1936 in which the proposal for acquisition was sanctioned. The Collector recommended that the whole of the compound measuring over 23 acres should be acquired along with the bungalow. The proposal was supported by the Board and accepted by the Government.

5. The acquisition was completed in March 1936 and the Government took possession of the bungalow and the compound on 18th March 1936. From that date the entire property has been vested in the Crown absolutely under section 16 of the Land Acquisition Act. It appears to the Board, therefore, that the only issue which the High Court can decide at this stage is whether the Sub Judge's valuation of the property was correct. The Sub Judge has also only to deal with the question of the amount of compensation and its apportionment and not with the question whether an excessive extent had been acquired. The declaration by Government that the entire property was required for a public purpose has become conclusive under section 6(3) of the Land Acquisition Act and, in view of the fact that possession of the property has already been taken and enjoyed by Government without any opposition from 18th March 1936, it is not possible to withdraw from the acquisition of any portion of the property which, in the opinion of the High Court, is excessive. The Government Pleader has not reported who exactly are the respondents in the appeal, whether Mrs. Brito and her son and others who did not ask for a reference to the Sub Judge have also been impleaded and whether a memorandum of cross-objections asking for enhancement of the compensation awarded by the Sub Judge has been filed by any of the respondents. Nor has the Government

Pleader reported whether he apprehends that their Lordships might give a decree enhancing the additional compensation awarded by the Sub Judge. It is not clear how the suggestion which their Lordships have conveyed through the Government Pleader is helpful to the Government. For reasons already explained, the Government can escape the liability to pay the additional compensation awarded by the Sub Judge, only if they are willing to give up the land in excess of Acs. 11-50 which the Sub Judge has held to be adequate for the Collector's bungalow. If this proposal is accepted by the Government and all the respondents interested in the compensation awarded, it would have to be given effect to by Government's granting the lands to the claimants according to the shares fixed for the apportionment of the compensation and the proposal would have to be incorporated in the High Court's decree so as to protect the Government from further litigation. All this may be legally possible but the Board sees no advantage in agreeing to this arrangement.

6. Even if the Government have to pay compensation in excess of what they originally thought would have to be paid, there will be no sufficient ground for giving up any portion of the land acquired. If, after the High Court has decided the appeal, the Government consider, after due investigation, that a portion of the land may be separated from the compound of the Collector's bungalow, they will be free to dispose of the superfluous land, as they like, on the best terms possible. This property is situated in Mangalore town and is valuable. The question as to what minimum area would be suitable for the compound of a Collector's bungalow is a matter of opinion. Mr Gawne the then Collector, stated in his evidence in this Land Acquisition case that the entire compound was necessary for comfortable enjoyment of the bungalow. It is not possible to reopen the questi

at such a short notice and decide whether a smaller compound would be adequate, without reference to the peculiar features of this compound and the locality and the probable developments in regard to building operations in the neighbourhood.

7. For all these reasons, the Board recommends that the Government Pleader may be asked to proceed with the appeal and press the Government's case with regard to the reduction of the compensation awarded by the Sub Judge, leaving the High Court to decide according to its best judgment.

8. The hearing of the appeal stands adjourned to Monday the 15th September 1941. The Board requests that immediate instructions may be issued to the Government Pleader. If the Government want some time for consideration of the matter, he may be requested to take a short adjournment.

Secretary.

To The Secretary to Government,
Public Works & Labour Department.

with a copy of the G.P's letter and
B.P.No.1421, Mis. dated 19-5-1938
to be returned.

Copy to the Secretary to Government,
Revenue Department. (with a copy of the G.P's letter)

Copy to the Government Pleader, Madras.

VG.13/9.

Copy of the Government Pleader's letter No.892 dated 10-9-1941.

Suits South Kanara - Madras High Court - A.S.No.280 of 1938 filed against L.A.C.15/36, Sub Court, Mangalore - Land Acquisition Collector's bungalow and compound.

B.P.Mis.1421 dated 19-5-1938.

The above appeal came up for hearing yesterday before their Lordships Mockett and Kunhiraman JJ. In the course of the hearing their Lordships wanted me to ascertain from the Government whether it was not sufficient to have 11 and odd acres of land along with the bungalow for the residence of the District Collector instead of 23 and odd acres now acquired. Their Lordships observed that in view of Ex.XVII (letter dated 18-12-1928 sent by the then Collector Mr. G.W.Wells to Rao Sahib J.J.Fernandes, the 1st claimant) in which it was stated that the Government had under consideration the question of acquiring the bungalow together with 11-30 acres of land, and in view of the Subordinate Judge's opinion that a site of about 11 acres is an adequate compound for the Collector's bungalow, it would be sufficient for the Government to acquire the bungalow with 11-30 acres of land only.

The further hearing is adjourned to the 15th instant (Monday), and I request that the Board may be pleased to send me definite instructions on the matter.

Copy to the Collector of South Kanara, Mangalore.

Special.

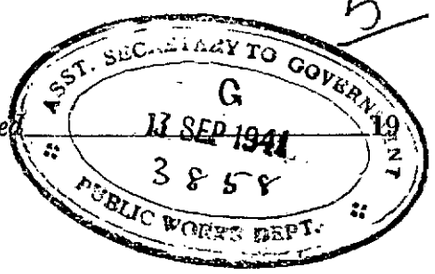
C.F. 31—12,006—28-11-

Revenue **DEPARTMENT.**

CURRENT No.

5

Received 19 *Registered* 19



Subject.

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Station Madras, *Dated the* 13th Septem

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Board of Revenue.

J.B.Brown Esq., C.I.E., I.C.S.,
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S Venkateswaran
13.9.41.

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Public Works & Labour Department.

with a copy of the G.P's letter and
B.P.No.1421, Mis. dated 19-5-1938
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JG.13/9.

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Copy to the Collector of South Kanara, Mangalore.

Rev Dept

Suits - (South Kanara) - Land Acquisition - Mangalore Taluk and Town - Collector's bungalow and compound - Additional compensation - Appeal to Hn. High Court.

C. No: 3285 E/41 From the Board of Rev
Refce. No. I 4146/41-1 dated 13-9-41

To U.S

Please see the Govt Pleader's letter at p 5 c/f and the Board's remarks at pp 1-4 c/f. The further hearing of the case is adjourned to the 15th instant (Monday). The question whether 11 and odd acres of land along with the bungalow for the residence of the District Collector ~~was~~ is sufficient, instead of 2.3 and odd acres of land now acquired, is one for consideration in the P. W. Dept. The Board's reference is addressed to the Secretary to Govt, P.W Dept and a copy of it is sent to this Dept. The file may be passed on to P.W.D for necessary action.

ASST. SECRETARY TO GOVERNMENT
G
13 SEP 1941
3859
PUBLIC WORKS DEPT.

Rev No. 3285 E/41
13.9.41
4.40 P.M.

Rev
13.9.41.
PK.
13/9/41

P.W.
P/W

P.W.D.

To A.S.

[The original of the Board's Ref. No. I. [illegible] 0/13.9.41 received in this Dept. is added to file – vide pp. 7-12 C.F.]

In the circumstances explained in paras 5 of the Board's reference, it is for orders whether the Govt. may agree to the recommendation of the Board in para 7 of its reference. If so, the Govt Trustee may be told to proceed with the appeal. A draft is accordingly put up. Rev. a Fin. may see after issue

13/9 13/9

Legal may see Kpre

Legal

P LD No 3858 G-41/7
14-9-41

Legal Dy (Recd at 12.25 pm)
13/9/41

Seen in this Dept
K.M.
14/9/41

Legal No 5992
14-9-41
Received 2.45 pm
K.M.
14/9/41.

Pwd

Recd at 8.30 pm
[illegible]

3861 G
15/9/41

P.W.D.

A.S

The draft below may issue. After issue,

10 17 3

Hive file may go to Public, ~~Rev. & Fin.~~ as ow[illegible]
at 'A' on p. 2 ante.

Inform first Please
G. L.

MB 15/9 KS 15/9

P.W.no 3858. 9.41.
15.9.41

Public
Rev.
Fin.

ASSISTANT SECRETARY TO GOVT.
15 SEP 1941
CHIEF SECRETARIAT

Public (Spl)

Recy be perused
and the file passed on
to Revenue.

30453
15/9

L.K.
15.9.41

Publ(Spl)/no. 30453/41
16/9/41

Rev

Rev Dept

ASSTT. SECRETARY TO GOVERNMENT
3374
16 SEP 1941
REVENUE DEPARTMENT

"ay be perused & passed
on to Fin

16/9

~~put~~ after full consideration
and after making inquiries
declined that the acquisition of
23 acres is necessary we do not
see how there can be without
[illegible] ourselves now. Any
[illegible] we have to

Necessary because a
previous Bench happens to
hold that rent

If the Hon'ble Court fixes a
fair price the market will
be a sound one.

Accordingly does
not move the
use of the Rent Judges
empowered in Bellary

Aw
17.9.41

Aw
17.9.41

Aw
17.9.

Eo 1726
14/9/41

Fi

Rem 4.0.3314 G.41
17.9.41.

Finance (Rents)

For perusal

Aw
17/9/41

17 SEP 1941
REVENUE DEPARTMENT

Aw
18.9

G.W.D

P.W.D

Fin no 31747 Rents-1
18.9.41

To A.S

Notes from p. 3 ante may be perused.

2. With reference to Rev. Secy's query in the margin above it is submitted that the Size of the Compound of the District Judge's residence at Bellary, as ordered to be delimited in G.O. no. 1726 P.W., dt 14.7.41, is 35.39 acres. Previously it was 83.98 acres

ASST. SECRETARY TO GOVERNMENT
G
18 SEP 1941
3925
REVENUE DEPT.

ASST. SECRETARY TO GOVERNMENT
3404 G
23 SEP 1941
REVENUE DEPARTMENT

p. 10 ante

+ 22 ibid

P.W. no. 3958 G.41-4

249

No 609 Lds 20/9

22/9/41

22/9

41.

Rev.